

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

|                           |   |                               |
|---------------------------|---|-------------------------------|
| <b>In re:</b>             | : |                               |
|                           | : |                               |
| <b>Todd F Wollenhaupt</b> | : | <b>Case No.: 19-30972</b>     |
|                           | : | <b>Chapter 7</b>              |
| <b>Debtor(s).</b>         | : | <b>Judge Beth A. Buchanan</b> |
|                           | : | *****                         |
|                           | : |                               |
|                           | : |                               |

**MOTION OF NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER FOR RELIEF  
FROM STAY ON FIRST MORTGAGE FOR REAL PROPERTY LOCATED AT 8416  
MCEWEN ROAD, CENTERVILLE, OH 45458**

Nationstar Mortgage LLC d/b/a Mr. Cooper (the "Creditor") moves this Court, under §§ 361, 362, 363 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001 and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code. In support of this Motion, the Creditor states:

**MEMORANDUM IN SUPPORT**

1. The Court has jurisdiction over this matter under 28 U.S.C. § 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On July 9, 2009, Todd F Wollenhaupt ("Debtor") obtained a loan from Union Savings Bank, A Corporation in the amount of \$78,856.00. Such loan was evidenced by a Promissory Note dated July 9, 2009 (the "Note"), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the Debtor and Denise Lynn Wollenhaupt executed an Open-End Mortgage dated July 9, 2009 (the "Mortgage"). The Mortgage granted a lien on the property owned by Debtor, located at 8416 McEwen Road, Centerville, OH 45458 (the "Property") and more fully described in the Mortgage. Todd F. Wollenhaupt and Denise L. Wollenhaupt husband and wife, for their joint lives, remainder to the survivor of them, Grantees acquired title to the Property by virtue of a deed from Todd F. Wollenhaupt married, Grantor, of the County of Montgomery, State of Ohio, dated August 28, 2013, filed September 5, 2013, recorded at Official Instrument Number 2013-00062571, Recorder's Office, Montgomery County, OH. A copy of said Deed is attached as Exhibit B.
4. The lien created by the Mortgage was duly perfected by the filing of the Mortgage in the office of the Montgomery County Recorder on July 22, 2009. A copy of the Mortgage is attached as Exhibit C. The lien is the first lien on the Property.
5. The Note was transferred as follows:
  - a. from Union Savings Bank to Franklin American Mortgage Company. The transfer is evidenced by the allonge attached to this Motion as Exhibit A.
  - b. from Franklin American Mortgage Company to Bank of America, N.A.. The transfer is evidenced by the indorsement attached to this Motion as Exhibit A.
  - c. from Bank of America, N.A. to \_\_\_\_\_. The transfer is evidenced by the indorsement attached to this Motion as Exhibit A. Because the endorsement is in blank and Creditor is in possession of the original Note, Creditor is entitled to enforce the instrument.
6. The Mortgage was transferred as follows:
  - a. from Mortgage Electronic Registration Systems, Inc., as Nominee for Union Savings Bank, A Corporation, its successors and assigns to Nationstar Mortgage LLC D/B/A Mr. Cooper, dated December 1, 2017. The transfer is evidenced by the document attached to this Motion as Exhibit D.

7. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.
8. The value of the Property is \$73,820.00. This valuation is based on the 2018 Montgomery County Auditor's tax record which is attached as Exhibit E.
9. As of April 1, 2019, there is currently due and owing on the Note the principal balance of \$67,155.76, plus interest accruing thereon at the rate of 5.5% per annum from September 1, 2017.
10. Other parties known to have an interest in the Property are as follows:
  - a. the Montgomery County Treasurer, in an unknown amount;
  - b. Denise L. Wollenhaupt;
  - c. Fox Ridge Villas Homeowners' Association is believed to be the holder of a judgment lien on the Property with an approximate payoff of \$2,240.00 per Debtor's Schedule D.Attached as Exhibit F is Debtor's Schedule D.
11. The balance on Creditor's first mortgage exceeds the value of the Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
12. The Creditor is entitled to relief from the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reason(s):
  - a. Debtor has failed to provide adequate protection for the lien held by the Creditor for the reasons set forth below.

- b. Debtor has failed to make periodic payments or had made partial payments to Creditor for the months of October 1, 2017 through April 1, 2019 which unpaid payments less any funds being held in suspense are in the aggregate amount of \$11,467.95 through April 1, 2019. The total provided in this paragraph cannot be relied upon as a reinstatement quotation.
  - c. Debtor intends to surrender the Property located at 8416 McEwen Road, Centerville, OH 45458 according to the Statement of Intent filed.
13. Creditor has completed the worksheet attached as Exhibit G.
14. This Motion does not seek to affect the rights of the Chapter 7 Trustee.

WHEREFORE, Creditor prays for an Order from the Court granting Creditor relief from the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code to permit Creditor to proceed under law and for such other and further relief to which the Creditor may be entitled.

Respectfully submitted,

/s/ Adam B. Hall  
Adam B. Hall (0088234)  
Edward H. Cahill (0088985)  
John R. Cummins (0036811)  
Stephen R. Franks (0075345)  
Manley Deas Kochalski LLC  
P.O. Box 165028  
Columbus, OH 43216-5028  
Telephone: 614-220-5611  
Fax: 614-627-8181  
Attorneys for Creditor  
The case attorney for this file is Adam B. Hall.  
Contact email is abh@manleydeas.com

### NOTICE OF MOTION

Nationstar Mortgage LLC d/b/a Mr. Cooper has filed papers with the court to obtain relief from stay.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

Clerk of the United States Bankruptcy Court  
Old Post Office  
120 West Third Street  
Dayton, OH 45402

OR your attorney must file a response using the court's ECF system.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Manley Deas Kochalski LLC, Attention: Adam B. Hall, P.O. Box 165028 Columbus, OH 43216-5028

Office of U.S. Trustee, Southern District of Ohio, Party of Interest, 170 North High Street, #200, Columbus, OH 43215

Paul H. Spaeth, 7925 Paragon Road, Suite 101, Dayton, OH 45459  
spaethlaw@phslaw.com

Russ B Cope, Attorney for Todd F Wollenhaupt, Cope Law Offices, LLC, 6826 Loop Road, Dayton, OH 45459  
ecf@copelawoffices.com

Todd F Wollenhaupt, 8416 McEwen Rd, Dayton, OH 45458

Denise L. Wollenhaupt, 7337 Reims Dr, Apt A, Dayton, OH 45459

Montgomery County Treasurer, 451 W. Third Street , P.O. Box 972 , Dayton , OH 45422

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Relief from Stay on First Mortgage for Real Property Located at 8416 McEwen Road, Centerville, OH 45458 was served **electronically** on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court:

Office of U.S. Trustee, Southern District of Ohio, Party of Interest, 170 North High Street, #200, Columbus, OH 43215

Paul H. Spaeth, 7925 Paragon Road, Suite 101, Dayton, OH 45459, spaethlaw@phslaw.com

Russ B Cope, Attorney for Todd F Wollenhaupt, Cope Law Offices, LLC, 6826 Loop Road, Dayton, OH 45459, ecf@copelawoffices.com

and by ordinary U.S. mail on May 2, 2019 addressed to:

Todd F Wollenhaupt, 8416 McEwen Rd, Dayton, OH 45458

Denise L. Wollenhaupt, 7337 Reims Dr, Apt A, Dayton, OH 45459

Todd F Wollenhaupt and Denise L. Wollenhaupt, 8416 McEwen Road, Centerville, OH 45458

Montgomery County Treasurer, 451 W. Third Street , P.O. Box 972 , Dayton , OH 45422

Fox Ridge Villas Homeowners' Association, c/o RCF Properties, 5797 Far Hills Ave #100, Dayton, OH 45429

/s/ Adam B. Hall